

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 04.02.2022	Delivered on 10.02.2022
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CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. No.26236 of 2021

Premalatha

...Petitioner

versus

The Tamil Nadu Uniformed Services

Recruitment Board (USRB)

Rep by its Member Secretary

Egmore, Chennai - 8.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondent to select and appoint the petitioner as Grade II Police Constable or Grade II Jail Warden based on her provisional selection list issued by the respondent.

For Petitioner

... Mr.M.R.Jothimanian,
for Mr.K.Balu

For Respondent

... Mr.P.Kumaresan,
Additional Advocate General,
assisted by
Mr.G.Nanmaran,
Special Government Pleader

O R D E R

The case of the petitioner is that she has studied upto 12th standard and belongs to Scheduled Caste community. She was married to one Mr.Kannan and from the wedlock, she has two children, who are aged about 11 and 8 years. Her husband unfortunately died on 06.07.2020 due to Covid-19 related complications. According to her, after the death of her husband, she was doing some odd jobs in order to eke out her livelihood and found it extremely difficult to make both the ends meet. Being a destitute widow and doing some odd jobs, she has been living in penurious conditions. Therefore, she approached the Tahsildar, Vridhachalam, for obtaining 'destitute widow certificate', after the death of her husband.

2. In the meanwhile, on 17.09.2020, the respondent recruitment Board issued notification calling for application from eligible candidates for common recruitment to the post of Grade II Police Constable/ Grade-II Jail Warden/Fireman. The petitioner, being eligible, applied for the notified posts, claiming against the quota reserved for Persons Studied in Tamil Medium (PSTM) and also against destitute widow category.

3. The petitioner, in course of the selection, appeared for the written test held on 13.12.2020 and was successful. Thereafter, her name was forwarded for certificate verification on 05.08.2021. According to the petitioner, she was fully qualified and secured sufficient cut-off marks in the respective category she was eligible to claim. It is also relevant to mention that the petitioner, apart from claiming under PSTM quota, has also claimed consideration under the 'destitute widow' category.

4. The petitioner, after the completion of initial stage of selection, learnt that she was not selected and was disqualified for the reason that at the time of certificate verification, she had not produced the destitute widow certificate. According to the petitioner, she was not aware of the procedure for obtaining a separate destitute widow certificate that was needed to be submitted for consideration under the said category, and that since she was only in possession of widow certificate, and the same was produced at the time of certificate verification.

5. On learning about the same, the petitioner applied for destitute widow certificate to the revenue authority and the same was pending due to Covid-19 situation. The certificate was eventually issued by the competent authority on 01.09.2021 and it was produced before the respondent immediately thereafter. But unfortunately, the same was not accepted by the respondent, as the certificate was not produced by her at the time of the certificate verification.

6. In response to the notice, Mr.P.Kumaresan, learned Additional Government Pleader, has entered appearance and a detailed counter-affidavit has also been filed in the matter. In the counter-affidavit, it is stated that the petitioner was considered only against the 'General Scheduled Caste Women' category as she failed to produce the destitute widow certificate at the time of certificate verification conducted on 05.08.2021. Since she did not have sufficient cut-off marks for General Scheduled Caste Women candidates, she was not allowed to participate further in the selection.

7. It is further stated in the counter-affidavit that in terms of paragraph 7 of the information brochure, it is clearly stated that the applicants who failed to upload the requisite destitute widow certificate in the prescribed format during

online application will not be assessed under the destitute widow category. The Board has finalized the recruitment process and published the final provisional selection results on 26.11.2021 and as such, the request of the petitioner at this stage cannot be considered.

8. Mr.Jothimanian, learned counsel appearing for the petitioner submitted that it is unfortunate that a lady, not well educated and hailing from a marginalized society was not aware of the procedure to obtain a destitute widow certificate at the time when she had applied and appeared for the selection process. Nevertheless, after having come to know about the requirements, she immediately approached the revenue authorities and made a request for the issuance of the same. As on date, it is not in dispute that she is a destitute widow, as vouched by the certificate issued by the competent authority dated 01.09.2021. Simple inadvertence on the part of the petitioner cannot result in denial of a once in a life time opportunity for the petitioner to gain employment in public service.

9. The learned counsel would also submit that this court in an identical circumstance, in W.P.No.19990 of 2021, decided on 17.09.2021, (K.Jayanthi vs. Tamil Nadu Uniformed Services Recruitment Board), has directed the respondent Board to accept the destitute widow certificate produced by the petitioner therein and consider her for being appointed. A copy of the order passed by the learned Judge has been produced before this Court for perusal.

10. Mr.P.Kumaresan, learned Additional Advocate General, appearing for the respondent Board would graciously submit that it is a pathetic case that the destitute widow certificate has been obtained belatedly by the petitioner. Nonetheless, in identical circumstance, this Court has taken a view that such certificate needed to be accepted post facto and the petitioner should be allowed to participate in the remaining process of selection and also to be issued appointment order on the final selection. According to the learned Additional Advocate General, if a direction is issued in this regard following the order passed in the aforementioned writ petition, the same would be complied with.

11. This Court, while appreciating the fair submission of the Additional Advocate General, has also perused the order passed by this court in the aforementioned writ petition. It is relevant and useful to refer to the said order. The order is extracted as under:

"The petitioner-widow, has filed an application in the Recruitment proceedings of the respondent for being appointed as a Grade II Police Constable under the category

of destitute. While uploading the application for the aforesaid post, the petitioner had enclosed a copy of the Widow Certificate issued by the Revenue Divisional Officer/Sub Collector. Before applying for the post, the petitioner had approached the Tahsildar for Destitute Widow Certificate but it has been granted to the petitioner only on 11.08.2021.

2. The petitioner was qualified in the written test and PET and was called for Certificate Verification. During certificate verification, it was found that the petitioner had not enclosed the Destitute Widow Certificate and therefore the petitioner's candidature was rejected.

3. After the petitioner obtained the Destitute Widow Certificate on 11.08.2021, the petitioner had sent a representation dated 13.09.2021 with a request to the respondents to consider her for being appointed against the quota reserved for Destitute Widow.

4. It is the case of the petitioner that the petitioner's husband passed away on 11.03.2018 and she is supporting two minor children alone and therefore she is entitled to be considered in the recruitment proceedings that has been carried out by the respondent.

5. The learned counsel appearing for the respondent submits that the petitioner had not enclosed the Destitute Widow Certificate along with the application shows that the petitioner was not entitled to participate in the recruitment proceedings.

6. It is further submitted that the petitioner can participate only against Widow category and the petitioner was barred by age. The facts on record indicate that the petitioner was one of the persons who was provisionally selected and secured more marks in the exams.

7. Considering the facts of the case that the petitioner had cleared the exams and obtained the Destitute Widow Certificate on 11.08.2021, which is about 6 days after the disqualification and the petitioner has also sent a representation dated 13.09.2021 to the respondent to reconsider the decision taken on 05.08.2021. The case of the petitioner deserves to be

considered sympathetically as she was otherwise qualified.

8. Therefore, this writ petition is disposed of by directing the respondent to consider the Destitute Widow Certificate dated 11.08.2021 of the petitioner though obtained post facto. If the petitioner was entitled to be considered for being appointed, the respondent shall proceed with the recruitment and absorb the petitioner.

9. This writ petition stands disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed."

12. It is needless to mention here that the facts of this case clearly fit into the above framework of consideration of the learned Judge of this Court as above. Even otherwise, this court is also of the independent view that in a matter like this, the recruitment Board must exhibit a larger understanding and grace in accepting the certificate produced by the petitioner, though belatedly. As rightly contended by the learned counsel for the petitioner, as a matter of fact, today it cannot be denied that the petitioner is a destitute widow. In such circumstances, merely because the relevant certificate was not produced by her on the date of certificate verification, i.e. On 05.08.2021, the same cannot be held against her and deprive her of a great opportunity of gaining invaluable employment in public service. It would be a great boon for her life too, if the petitioner is able to secure employment under the said quota, as it would alleviate and ameliorate her present penurious conditions to a great extent and it would also help her to satisfy the needs of her two minor children securing their future.

13. In these circumstances, the writ petition is allowed and the respondent is directed to consider the claim of the petitioner as a destitute widow on the basis of the certificate to be produced by her.

14. The respondent is also directed to permit the petitioner to participate in the remaining part of the selection and in the event of she fulfilling all other norms and criteria, her name shall also be included in the select list for her eventual appointment for the post in which she is entitled to be considered.

15. The respondent shall initiate and complete the action as indicated above within a period of eight weeks from the date of receipt of a copy of this order.

16. The writ petition is allowed. There will be no order as to costs. Consequently, W.M.P.No.27692 of 2021 is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

The Member Secretary,
Tamil Nadu Uniformed Services
Recruitment Board (USRB)
Egmore,
Chennai - 8.

+1cc to Mr.K.Balu, Advocate SR. No.8718

W.P. No.26236 of 2021

SSN (CO)
PR (18/02/2022)